

*United States Court of Appeals
for the Second Circuit*



**APPELLEE'S
APPENDIX**

ORIGINAL

74-2522

United States Court of Appeals
FOR THE SECOND CIRCUIT

BPS

Docket No. 74-2522

UNITED STATES OF AMERICA,

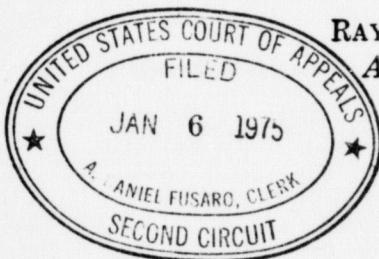
Appellant,
—against—

IRVING STERN,

Appellee.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

APPELLEE'S APPENDIX



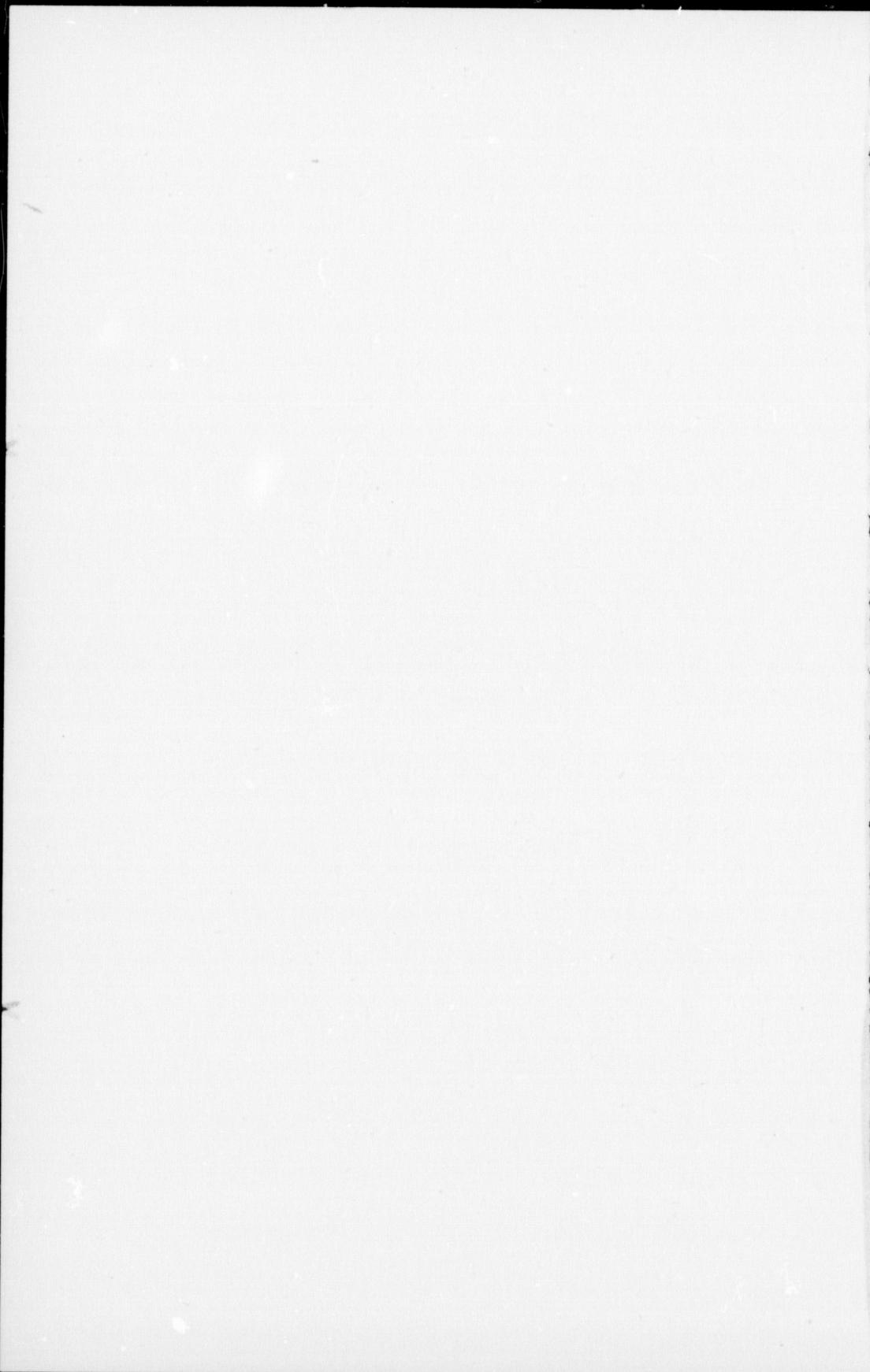
RAYMOND BERNHARD GRUNEWALD
Attorney for Appellee
233 Broadway
New York, N. Y. 10007
(212) 964-1400

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Appellee's Motion to Suppress

* * *

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

74 CR 287

UNITED STATES OF AMERICA,

—against—

IRVING STERN, et al.,

Defendants.

SIR:

PLEASE TAKE NOTICE, that upon the annexed affidavits of Raymond Bernhard Grunewald, Esq., and Irving Stern, sworn to the 15th day of August, 1974, and the 22nd day of 1974, respectively, upon the indictment herein, and upon all the proceedings heretofore had herein, the undersigned will move this Court before the Hon. Thomas P. Griesa, United States District Judge, Southern District of New York, at such date prior to the commencement of the trial as the Court may direct, at the United States Courthouse, Foley Square, Borough of Manhattan, City and State of New York at 10 o'clock in the forenoon of that day or as soon thereafter as Counsel can be heard, for an Order, pursuant to Rule 41(e), Federal Rules of Criminal Procedure, to suppress for use as evidence upon the trial of this indictment, anything and everything evidentiary obtained from or through the defendant, Irving Stern, as well as any leads obtained therefrom, as a result of any conversation between said Irving Stern and any attorney at law and, in particu-

Appellee's Motion to Suppress

lar, one Walter H. Bodenstein, Esq., on the grounds that such conversation was privileged, that the unauthorized revelation of such conversation and the information contained in it, was and is in violation of the recognized protections afforded persons in an attorney-client relationship, and that its acquisition was, and its use is, in derogation and contravention of the defendant's rights under the Fourth, Fifth and Sixth Amendments to the United States Constitution, and for such other and further relief as to this Court may seem just and proper.

Dated: Brooklyn, New York
26 August, 1974

Yours, etc.,

RAYMOND BERNHARD GRUNEWALD, Esq.
Counsel for the Defendant
Irving Stern
Office and Post Office Address
16 Court Street
Brooklyn, New York 11241
Tel.: 858-6464 or 624-3584

To:

United States Attorney
Southern District of New York
Foley Square
New York, New York 10007

**Affidavit of Raymond Bernhard Grunewald in
Support of Motion to Suppress**

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

74 CR 287

UNITED STATES OF AMERICA,

—against—

IRVING STERN, et al.,

Defendants.

STATE OF NEW YORK }
COUNTY OF KINGS } ss.:

RAYMOND BERNHARD GRUNEWALD, being duly sworn, deposes and says:

I am counsel for the defendant Irving Stern and make this affidavit upon information furnished by the defendant and from the contents of a transcript of conversation, dated May 18, 1973, furnished by the prosecution pursuant to the defendant's motion for discovery and inspection.

Walter H. Bodenstein, upon information and belief, is a member of the bar of the State of New York since 1960 and maintained law offices at 260 Fifth Avenue, New York City, N. Y. 10001 during the years 1968 through approximately July 1974, with offices, effective, approximately August 1, 1974, at 160 East 38th Street, New York City.

*Affidavit of Raymond Bernhard Grunewald in Support of
Motion to Suppress*

On or about May 18, 1973, the defendant Irving Stern consulted with attorney Walter H. Bodenstein, at said attorney's home located in New City, New York. Irving Stern had consulted with attorney Bodenstein on prior occasions at the latter's Fifth Avenue office.

Stern had sought out attorney Bodenstein because of the latter's familiarity with the meat industry and Irving Stern's desire for attorney Bodenstein to advise him in the selection of additional and special counsel with respect to certain then possibly potential tax problems and other possibly potential legal matters stemming from known investigations then in progress with respect to the meat industry. The tax aspects were as to years prior to the conversation. (See Exhibit "A", notice from a Special Agent, Internal Revenue Service, dated March 26, 1973.)

Irving Stern, as is apparent from the transcript, came to attorney Bodenstein seeking professional advice. Attorney Bodenstein listened to the general nature of the problem and undertook to secure an expert in the field discussed. As Stern, the client, phrased it to attorney Bodenstein . . . "I'm turning . . . in desperation for some advise of, cause I'm much afraid of talking and much afraid. *The only one I really consulted*, that knows the whole goddamned thing, you know, is you." A few sentences earlier, attorney Bodenstein had stated: ". . . I think I know the ans^r as a lawyer." Stern then responded, "As an attorney you know the answer." It is apparent that Bodenstein gave and had given advice as a lawyer, to Stern. Stern secured his opinions on law and legal services and thought he obtained Bodenstein's assistance as an attorney.

Unbeknownst to Stern, attorney Bodenstein had recorded their conversation. Without Stern's consent, Bodenstein

*Affidavit of Raymond Bernhard Grunewald in Support of
Motion to Suppress*

turned over the tape to agents of the Federal Government for their use against Irving Stern.

As noted previously, it is obvious from the tape recording itself that Irving Stern had consulted with attorney Bodenstein on other occasions. These consultations were in the attorney's law offices and were also privileged.

Irving Stern, as of this date, has never waived his privileged communications with the attorney from whom he sought legal aid and assistance and in whom he confided information essential to getting that advice and assistance.

Irving Stern affirmatively asserts his privilege and seeks to suppress all confidential attorney-client conversations with attorney Bodenstein, inclusive of leads obtained therefrom.

Since the defendant contends that the material and information obtained is privileged, no copy of the government furnished transcript is appended to the moving papers. Should the Court deem it necessary to hear the recording or read the transcript, said original tape and transcript are available, without waiving the privilege, for in camera inspection by the Court at such time and place as the Court may choose to designate upon the Court's request of the government in whose possession the originals illegally repose.

WHEREFORE, it is respectfully urged that defendant's motion to suppress be granted upon the moving papers or, in the alternative, without waiver of defendant's privilege, upon the Court's in camera examination of the government transcript and tape or upon a hearing for that purpose,

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*Affidavit of Raymond Bernhard Grunewald in Support of
Motion to Suppress*

together with such other and further relief may be just
and proper.

.....
RAYMOND BERNHARD GRUNEWALD

Sworn to before me this
day of August, 1974.

MICHAEL J. GILLEN
Notary Public, State of New York
No. 30-6518570
Qualified in Nassau County
Commission Expires March 30, 1976

**Affidavit of Irving Stern in Support of
Motion to Suppress**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

74 CR 287

UNITED STATES OF AMERICA,

—against—

IRVING STERN, et al.,

Defendants.

STATE OF NEW YORK }
COUNTY OF KINGS } ss.:

IRVING STERN, being duly sworn, deposes and says:

I am a named defendant in the above entitled indictment and fully familiar with the facts to which this motion to suppress is addressed.

I have listened to a re-recorded tape recording of conversation between myself and attorney Walter Bodenstein, which conversation took place either in Mr. Bodenstein's law office or at his home in New City, New York, allegedly on or about May 18, 1973, and which taped conversation and a written transcript thereof, I am advised by my trial counsel Raymond Bernhard Grunewald, Esq., was turned over to defense counsel pursuant to law.

I wish to advise this Court that all of my conversations with attorney Walter Bodenstein and, in particular, the

Affidavit of Irving Stern in Support of Motion to Suppress

events discussed in the tape recording referred to above, were discussions and conversations that I, as a layman, and, upon advice of counsel, believed to be privileged and confidential because of the attorney-client relationship that I firmly believe existed at all times, and, in particular, on this occasion and on any of the occasions preceding or subsequent to it. I respectfully assert that this is apparent from the tape-recorded conversation quoted by Raymond Bernhard Grunewald, Esq. in his affidavit appended to this motion.

I wish to affirmatively state that I sought attorney Bodenstein's advice, as an attorney, and in order to obtain his advice confided in his confidential facts which he could evaluate as an attorney, and thereupon discussed with him matters personal to me that had transpired before I spoke to him and about which I was gravely concerned since I feared that the revelation of these facts might, albeit erroneous, cause serious legal difficulties for me.

Attorney Bodenstein spoke to me as an attorney. He was not a social acquaintance of mine. Attorney Bodenstein assured me that our conversations were confidential, and although he refused to accept my offer of payment for his time and advice, nevertheless, did not hesitate to advise, and after ascertaining the nature of my problem, recommend special counsel who I thereafter consulted.

At no time did I confide in attorney Bodenstein except under the firm belief that what I discussed with him was privileged information and confidential because of the well recognized relationship between an attorney and a person who came to him for advice. I have never authorized attorney Bodenstein to reveal or discuss any conversation or, obviously, to record it and then turn it over to a third party. I am shocked and disappointed by this betrayal of

Affidavit of Irving Stern in Support of Motion to Suppress

confidence and privilege. As is obvious from listening to the recorded conversation, the same was done surreptitiously and without my knowledge.

I wish to affirmatively state that I have never, and do not now, waive my attorney-client privileges for any purpose and, in particular, to any conversation held with attorney Bodenstein at any time.

WHEREFORE, I respectfully request this Court to grant the relief requested in this motion, together with any relief that would be just and proper.

.....
IRVING STERN

Sworn to before me this day of August, 1974

RAYMOND B. GRUNEWALD

Notary Public, State of New York

No. 30-6693575

Qualified in Nassau County

Certificate filed in Kings County

Commission Expires March 30, 1975

* * *

**Transcript of Tape Recorded Conversations Between
Walter Bodenstein and Irving Stern on May 18, 1973**

Transcript of Tape Recorded Conversations

Bodenstein 12397

This isn't plugged in so how long can it go? Book says you can do it. Book says you can do it.

Yeah, there's a delay. It's like a (noise)

Yeah, Yeah, Yup.

That's correct. O.K. Buddy

Bye Bye

Yeah, I get a like a time delay. I can hear myself here. As as I talk it comes in a minute later. You hear it?

A couple of seconds after I talk.

Other Voice

Yeah

Bodenstein

This doesn't seem that goddamned sensitive.

Walk over there Hy.

Hy

On! Come on you gotta play that back to me

Well go away and talk to me

Fair Leigh Dickinson University

Bodenstein

Too loud

Hy

Fairleigh Dickinson University. Uh Brooklyn Law School. Bachelor of laws, uh, today is Friday the 18th.

Bodenstein

Alright. Give us a hand and let me do it the way it would it mean something. Because I gotta set this son of a bitch up. Let's see if it works. Almost . . . (unintelligible)

Hy

They, they recommend is sort of . . . (unintelligible)

One two test

Transcript of Tape Recorded Conversations

Bodenstein

I got it

Womans Voice

Tell 'em no

Bodenstein

So I'm treating

Child's Voice

Chicken!

Bodenstein

How come?

Child's Voice

Daddy.

... (unintelligible)

Bodenstein

Tell Herb how you're doing

Excuse me

(2) Bodenstein

Did you get me cigaretts sweetheart

Woman's Voice

Yes, they're in the front

Bodenstein

Want some?

Yeah (unintelligible)

Better go inside Herb

Stern

How do you feel?

Bodenstein

Shot! I was done in I was in Portland. I was looking at a lamb, a lamb packer there.

Stern

Oh

Bodenstein

New

Stern

Nothing . . . (unintelligible)

Transcript of Tape Recorded Conversations

Bodenstein

All right, I had a After I talked to you last week I was disturbed and I sat down and had a meeting with Moe. I understand your problem and I got the feeling that maybe something was going on that I didn't know. I had a long talk with him and I made him swear on the kids. I had a long talk with him and I told him (unintelligible) . . . I never gave you nothing. I says I talked to Irv over Iowa Beef. I don't believe that you ever gave him any of that.

Stern

Never did.

Bodenstein

Because I don't understand. I was talking of your problem this and that and I got a bad feeling when we talked last week and I thought maybe something was going on that I didn't know anything about. Is there Irv? I don't know. I'm serious. I'm not bull shitting because I, I sat him down, I got upset because I gave the fucking books to auditors is what I told him, this shit and that shit I don't wanna know, you know if something's there I want to know it. He tells me no. Swore to me on the kids, on everything.

Stern

Well, it's true.

Bodenstein

O.K.

Stern

Didn't I raise it?

Bodenstein

Then there's no

Stern

Didn't I raise it?

Transcript of Tape Recorded Conversations

(3) Bodenstein

No, no, in my head that's what was raised and I was concerned about it.

Stern

Did you tell him that I said no?

Bodenstein

No, I told him you said no. I told him that you said no. I was upset. Uh! Moe's beating the tree with IRS and shit again. Much of whom are bothering the shit out of him.

Let me grab the fucking. . . . (unintelligible)

Stern

Huh

Bodenstein

Other than that we got uh . . . IRS has been visiting everybody. They're now going through Transworld again apparently, from what Moe tells me—and they're continuing—they're continuing (noise). . . .

Stern

(Unintelligible) . . . Absolutely nothing has happened except that I had to go. The only thing I wanted to check out is the George George thing, and what we don't know—I didn't know until you told me that you didn't say anything on that there—was a question there but a message was sent back through the same guy who brought it that don't worry about Nicky, Nicky is solid. Nicky'll not . . . Nicky has never done anything improper in his life and that Nicky is 100% solid.

Bodenstein

Now, with the bonds—you're talking—the number keeps switching. I don't know where we're at with that.

Transcript of Tape Recorded Conversations

Stern

I don't know . . . (unintelligible). . . . I don't have to switch—go ahead.

Bodenstein

You're talking a hundred and ten

Stern

Right, it's always been that.

Bodenstein

All right now.

Stern

There's twenty in sixty-eight. It was twenty in sixty-nine. I'm thinking . . . there's twenty I gave to Chemical as a loan in '68.

Bodenstein

O.K.

(4) Stern

That's . . . I have it here I'm trying to keep a record . . . I can . . . I have the numbers I just keep the numbers I got no fucking records. It was, here I don't know which is which now but the point is I gave 20 in 68.

Bodenstein

O.K.

Stern

I made a loan in Amalgamated then I made a loan in '69 to pay taxes in Chemical. Then

Bodenstein

Excuse me.

Stern

I gave 50 to Hirsch & Company as collateral against some stock purchases.

Bodenstein

Which is 20, 20 is forty and 50 is ninety.

Stern

Ninety and then in 71 I used another 20 again in the Amalgamated and so it's 40 in the Amalgamated 20 in Chemical 50 in this. This is it.

Transcript of Tape Recorded Conversations

Bodenstein

Now how about your guy at the bank. Is anybody on him.

Stern

No, no we're still trying to get the records from . . . the ones from Hirsch the ones from Hirsch, the Dupont, the Shields. The accountant has, has asked to a letter for the Here I even have the bond I didn't think I

Bodenstein

All right.

Stern

Has written a letter which I countersigned authorizing them to turn over my records including any collateral that was used because you know if it's there you better know.

Bodenstein

Right

Absolutely

Stern

There's no fucking around. It's now three weeks and we keep pressuring them and you know how it is in these fucking things cause DuPont is all fucked up. You know it comes from Hirsch, Hirsch is out of business.

Bodenstein

Then there was a merger, another thing. a whole cockamamie

Stern

Yeah! Yeah! that's right. First there's a merger between Hirsch and Du Pont. Then the guy who is in Du Pont moved over to Shields so I transfer my accounts from Du Pont to Shields. So we're trying to get it out of DuPont really is where we're trying to get the records, because that, there was a slip of paper there showed you proof of ownership to

Transcript of Tape Recorded Conversations

(5) Stern

follow

Bodenstein

Uh! Uh!

Stern

On that's 50 we're trying to get to see if actually that records still extant or it got lost some place. You know how fucking records, there in warehouse and all that and the account was transferred. We're trying to get the fucking thing 2 to 3 weeks. Hoping next week to 10 days we'll have the fucking records. You see I have my records.

Bodenstein

Uh! Uh!

Stern

Everything I've turned over to the accountant and he's worked it over. But the one major problem is how do you account for this kind of shit. You know where did it come from. Now this. The major fear is. See my attorney is . . . (unintelligible) I've sworn on a stack of bibles that I absolutely . . . (unintelligible)

Bodenstein

That's true

Stern

It's true. Absolutely nothing to do with Iowa.

Bodenstein

Irv, the way you say that frighten's me. Is that true?

Stern

Yes it's true.

Bodenstein

Okay Uh, so what we've got to do. You've got an exposure with this fucking things . . . (unintelligible)

Transcript of Tape Recorded Conversations

Stern

And they're going to try to link me up with Moe I'm telling you. And what worries me is that they're going to try to claim Mafia money.

Bodenstein

Uh, which is a lot of horse shit.

Stern

Yeah, of course, lot of horse shit. The question is, is there any place that they can possibly account for any place this could have come from. Some posture got to be worked out, that's the situation.

Bodenstein

All right, let me tell you what I think ought to be done as a first step

Stern

Please, let me ask you

Bodenstein

Go ahead

Stern

Another thing if you don't mind

(6) Stern

Some business friends who've come upon same income tax problems have recommended me by Kostelanetz.

Uh, uh, give me the other name Vallins

Bodenstein

Bender

Stern

Not Bender. They didn't give that name Vallins or Jallins

Bodenstein

That's your touching on what I was going to suggest

Stern

Vallins. Is there a Vallins?

Transcript of Tape Recorded Conversations

Bodenstein

He never came to me

Stern

A very prominent name

Give me a very prominent

Bodenstein

I've got and I'll tell you what we did when we checked.

I've got two names from everybody.

Stern

Ritholz, is that a name

Bodenstein

Ritholz rings a bell, I don't know why.

Stern

Associated with Kostelanetz, or somebody.

Bodenstein

Could be. Here's what I get. I get Kostelanetz, as number one, Bender number two or Bender number one, Kostelanetz number two. All right.

Stern

Another name, Bokey

Stern

I should have brought it

Bodenstein

All right so it's number three. Unimportant. Why don't you have your lawyer get in touch with Bender. Let him just talk it out that way.

Stern

Oh, he got this accountant doing the analysis

Bodenstein

Bender's got a good head. He's the best in the business. Maybe Kostelanetz is better you know, who you talk to, All right? Mercha Kapera, you know.

Transcript of Tape Recorded Conversations

Stern

How does he come to him and what is the relationship.

You know

Bodenstein

All right.

(7) Stern

This is the pr

You want to

Bodenstein

Let me talk you kn ..

Irv Uh! Let me talk to

Stern

One other thing, the lawyers have warned me to keep my fucking mouth shut.

Bodenstein

Okay! Let me talk, let me talk to Bender

Stern

. . . Keep my fucking mouth shut . . . what they're concerned about that I maybe shooting my mouth off too much.

Bodenstein

A lot of people, well don't. Uh, you know, you've got to listen to their advice. Let me do the following. I have a Monday morning meeting with Bender. Okay 9:30 in my office. Ah, let me just ask him in what proper way the meeting can take place and . . .

Stern

If it should.

Bodenstein

Or if it should even and

Stern

The one thing I don't want to link is my situation with Moe and Iowa Beef, you know for obvious reasons. It

Transcript of Tape Recorded Conversations

doesn't matter that it's not true. The reason I . . . (unintelligible) . . . offer down on me is that they thought of this guy . . . (unintelligible) . . . taking care of . . . (unintelligible) . . . the reason I went this route is because I am most . . . I dreadfully afraid of the whole cockabob. They're trying to do it, they're trying to do it, they're trying to do it with Aaron. They're trying to push that Iowa Beef somehow. They're trying to make a fucking case that you know, this buyers and things I am so fucking afraid, not only for myself.

Bodenstein

As far as I know of that situation, Irv. Currier's testified I have Stan Feldman in my office today, as a matter of fact. Uh, I've spoken to everybody at Iowa Beef. Everybody has told the truth. The only involvement you've ever had in that situation to my knowledge.

Stern

The Stanhope

Bodenstein

Is at the meeting and nothing improper. I've gotten that from you. I've made Moe swear to it. Cause I was questioned already if you want to know the goddamned truth. I made Moe swear. I've gotten it from Currier. I've gotten it from Bob Kemp, I got it from what the hell, that's lawyer?

Stern

You're saying, in their records, in your records, in all records.

(8) Bodenstein

So somebody wants to make out a lie, Irving. So what the hell can you do

Transcript of Tape Recorded Conversations

Stern

Well, you know what you can do. You mean do I have to tell you. Somebody wants to make up a lie about Aaron. I'm not bringing . . .

Bodenstein

Okay.

Stern

Somebody wants to make up a lie, so they make up a lie. So they have a fiction.

Bodenstein

All right, let me. Can I call you in your office Monday?

Stern

I'll call you

Bodenstein

Call me at

Stern

. . . (unintelligible) this point it's easier, it's easier.

Bodenstein

Call me at 10:30 Monday morning.

Stern

I'm going to be at the accountant's at 11 o'clock

Bodenstein

Call me at 11 o'clock. I will have Lou Bender in my office and I'll ask him what the proper way to do it, how to accomplish it and whether or not it poses a problem. You know it is a conflict, is it a shtick, is it this, is it that

Stern

What do you mean by that, now, whether my lawyer should contact.

Bodenstein

Yeah, how your lawyer should go about doing that.

Stern

. . . (unintelligible) I'm afraid of leaking.

Transcript of Tape Recorded Conversations

Bodenstein

Let me . . . I know, in other words

Stern

I swore on a stack of bibles . . .

Bodenstein

I know what you're saying

Stern

That I have nothing to do with you. Matter of fact the IRS guy asks, it's policy, he says that I am Moe Steinman's friend.

Bodenstein

You are Moe

Stern

So I looked, I looked, what the hell is he talking about. And you don't know which fucking wires are tapped. You don't know, you know, any connections.

(9) Stern

I think most important that we, even though I'm shitting in my pants, but most important, is to keep a separation.

Bodenstein

Okay

Stern

Keep a separation

Bodenstein

Let me talk with Lou and see if

Stern

Pose the problem of a guy.

Bodenstein

Let me pose the problem without mentioning your name and see if it's proper for him to handle it and. Without without a connection that will look bad

Stern

But you know the situation

Transcript of Tape Recorded Conversations

Bodenstein

Yes, I do. I know it totally. You know, you've given it to me, I understand it. I will have Lou Monday morning. Let me talk to him. He's the best in the business, in my opinion.

Stern

I gotta get, I'll get to you on Monday. You gonnie be.

Bodenstein

I'll be in all day Monday.

Stern

All right. I have your number that's what's the name of the company.

Bodenstein

It's either under my name Bodenstein listed under my name 686-5574

Stern

When I can't talk to you on the phone, I will come into the city.

Bodenstein

I'll meet you, I'll have a drink with you. I'll have some coffee with you.

Stern

All right, during the day sometime

Bodenstein

Any time at all Monday

Stern

All right but you understand you know my posture

Bodenstein

Yup.

Stern

And my posture is to keep Moe away from me

Bodenstein

You what what the same of the goddamned thing . . .
(unintell)

Transcript of Tape Recorded Conversations

Stern

I know . . . there are none, you know there are none but they want to prove that and I'm a live one for them. If it doesn't . . . I don't get across to you?

(10) Bodenstein

You got across to me completely. I, I just don't know where the hell they're going, Irving. They're all over the goddam lot.

Stern

That's the problem and if they

Bodenstein

Say, my accountant was told by-um-they threatened him, they threatened Dick Gumson disbarment this stuff, that stuff. These are guys who who told the truth, have nothing to say and so I don't know what the hell is supposed to happen

Stern

My posture of course is as far as I know that I have, I am taking the Fifth down the line. I have no place to go. I have no place to go.

Bodenstein

All right

Stern

Unless the accountant. Are you with some people?

Bodenstein

No, I got the kids. I usually do, do a Friday night shtick with them for dinner.

Stern

So my posture is unless they tell me something, I don't know what to do, they may try to give a rationale, some bullshit—of inheriting and something. I don't know. I don't know. There's got to be an answer. I just can't have a no answer.

Transcript of Tape Recorded Conversations

Bodenstein

Let me talk to Lou. He's the best tax lawyer in the business

Stern

Well, I'll call you on Monday

Bodenstein

How's your wife feeling?

Stern

She's all right because I've, I've been behaving fairly well.

Bodenstein

You look much better

Stern

I'm behaving fairly well. I mean that sincerely.

Bodenstein

Okay. Good.

Stern

Any my motivation, here is, really, if they hadn't mentioned Moe when they came in on me, I wouldn't have gotten upset. But when they start and they start the sticklers with the links my fear was, not that they can prove something, that that on the contrary they'll make allegations of of hidden money. That's what's upset me so terribly. Since I can't explain, they'll make the allegations. So you say Okay, it doesn't matter. He's already in it. Do I have to complicate his fucking life. Do I want to be party to anything, that's going to complicate his life. That's what I'm saying here.

(11) **Bodenstein**

Let me get a hold. You have my word Lou will get a full picture without names on Monday. If there's a way where he can handle the situation, he will.

Stern

Even if I meet him off the record and you'll

Transcript of Tape Recorded Conversations

Bodenstein

 All right

Stern

 Straighten him out tonight

Bodenstein

 You'll pay him

Stern

 Could you tell me

Bodenstein

 Whatever. Or if he says you've got to pay him, You'll pay him . . . (unintelligible) A couple of dollars. Whatever, I don't know

Stern

 Whatever has to be done but I, what I'm most fearful of is that my guys find out anything about it. But they've warned me if you go around talking, man, you're dead.

Bodenstein

 He may want. Your guy may be better speaking to Lou Bender than you. I don't know, let me talk to Lou. Lou is respected, he is well known, he is straight as a die.

Stern

 But I got . . . (unintelligible)

Bodenstein

 A good reputation

Stern

 . . . (unintelligible) not to lose my guys I had . . . (unintelligible)

Bodenstein

 You're not going to lose your guys, you know. They may go on a consulting basis to Lou.

Stern

 They may not go at all

Transcript of Tape Recorded Conversations

Bodenstein

Well let me see what Lou says and then let me tell you what he says

Stern

Tell him the situation. Since, here's the situation.

Bodenstein

I'll tell him it's sensitive.

Your lawyer feels that you shouldn't. you feel you need som advice possibly and you don't know which way to handle it.

Stern

And I'm much afraid, you know, I'm much afraid of losing the only thing I got.

(12) Bodenstein

All right

Stern

I got nothing else, I lose them, I'm dead. You know, I don't even have all this because I've told them the whole fucking story in terms of, you know, what this is all about. You know, that over the years . . . (unintelligible) and all this bullshit. If I lose them, where do I turn.

That's why it's got to be posed, and you can do it. You're clever enough to know how to do it. Here's a situation where a guy came to me with a problem I don't know how to advise him. He's concerned about going to somebody because he's been told, you know, he's not to talk, he is not to spread any stuff around and things of that stuff and that he's going to endanger himself and all that but he just doesn't know how to turn and is there a way.

What is the answer?

What is the posture of a guy?

Do I have to explain?

Transcript of Tape Recorded Conversations

Bodenstein

I don't know, yeah, I, I think I know the answer as a lawyer Uh

Stern

As an attorney you know the answer

Bodenstein

But I'm not the pro in this area and Lou Bender is, let me talk with him

Stern

I'll call . . . (unintelligible) don't make any commitments unless I . . . (unintelligible)

Bodenstein

I'll make no commitments whatsoever

Stern

You know what I'm saying

Bodenstein

I will do it very quietly

Stern

I'm turning . . . (unintelligible) in desperation for some advise of, cause I'm much afraid of talking and much afraid. The only one I really consulted, that knows the whole goddamned thing, you know, is you. Uh Walter. I I feel (unintelligible) people . . . (unintelligible)

Bodenstein

No, I'm not, uh, let me see what I can do. I hope your wife feels better. You look better. Keep your chin up.

(13) Bodenstein

Come, I'll walk you to the car. Where are you—out front?

Stern

. . . Will you be available

Bodenstein

I should be available all day Monday.

Transcript of Tape Recorded Conversations

Stern

Should I give my name when I call you . . .
Bodenstein

Yeah, . . . (unintelligible) you called me and if it's ever asked what you called me for tell the truth. You called me, you asked me to talk to the best lawyer in the field to get a feeling, which is the truth

Stern

. . . (unintelligible) Should I use another name
Bodenstein

Ask for me, tell them it's a friend. If you want to do it that way. That's all.

They'll put the call through

Stern

Okay

Bodenstein

That's all

Stern

You tell them somebody else is calling
Bodenstein

Will do, I'll speak to you

Stern

So long, Good Luck

Bodenstein

Speak to you Monday and I'll see you

Stern

. . . (unintelligible)

End

one w/ copy
Service of three (3) copies of the within
Appellee's *Opp. to Motion to Dismiss* is hereby admitted
this 23rd day of December, 1974

.....
Attorney(s) for

